

Before the
FEDERAL COMMUNICATIONS COMMISSION
 Washington, D.C. 20554

AUG 19 1999

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of:)

)

Amendment of Section 73.202(b),)

)

Table of Allotments,)

)

FM Broadcast Stations,)

)

(Stamps and Fouke, Arkansas))

MM Docket No. 99-241

RM-9480

To: Chief, Allocations Branch
 Policy & Rules Division, Mass Media Bureau

**COMMENTS & STATEMENT OF CONTINUING INTEREST
 OF
 IN PHASE BROADCASTING, INC.**

Comes now **IN PHASE BROADCASTING, INC.** ("In Phase"), by Counsel, pursuant to Paragraph Nos. 5 and 9 of the *Notice of Proposed Rule Making (DA 99-1291, released July 2, 1999)* ("NPRM"), and hereby respectfully submits these Comments & Statement of Continuing Interest in the above-captioned Rule Making proceeding. In support hereof, In Phase submits the following:

Preliminary Statement

1. In Phase is the permittee of unbuilt Radio Station KLMZ-FM on Channel 282A at Stamps, Arkansas. On July 2, 1999, the Commission, in response to a petition filed by In Phase, released the NPRM wherein it proposed to amend §73.202(b) of the Rules, Table of Allotments, as follows:

<u>City & State</u>	<u>Existing</u>	<u>Proposed</u>
Fouke, Arkansas	---	282A
Stamps, Arkansas	263C2, 282A	263C2

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2. In its original petition, In Phase submitted an Engineering Statement wherein it is stated that Channel 282A may be reallocated to the community of Fouke, Arkansas in compliance with Section 73.207 of the Commission's Rules regarding current spacing requirements. According to the Engineering Statement, Channel 282A may be reallocated to Fouke, Arkansas at site reference coordinates North Latitude 33 - 15 - 42 and West Longitude 93 - 53 - 06. From this location, the 3.16 mV/m city-grade contour will encompass the entire city limits of Fouke.

Additional Technical Information

3. In Paragraph No. 5 of the NPRM, the Commission recognizes that In Phase intends to relocate the KLMZ-FM transmitting site. Accordingly, since there will be potential gain and loss areas, the NPRM requests In Phase to provide further information regarding the areas and populations which will lose potential service if Channel 282A is removed from Stamps, as well as information to identify the reception services that are now available within both the gain and loss areas of this rule making proposal.

4. Attached hereto as Exhibit No. 1 is a Technical Statement prepared by Graham Brock, Inc. wherein the areas, population and reception services information is provided. In brief, the Technical Statement demonstrates the following:

- Radio Station KLMZ-FM would provide 1 mV/m service to 27,248 persons if licensed to Stamps, as compared to 1 mV/m service to 63,940 persons if licensed to Fouke.
- Of the 27,248 original persons, 21,689 would no longer be capable of receiving the KLMZ-FM signal once the proposed reallocation is effectuated. However, of the 63,940 capable of

receiving service from KLMZ-FM at Fouke, 58,381 persons would receive new service from KLMZ-FM.

- Stamps is a well-served community because the loss area is presently served by at least five full time FM stations, and some full time AM stations.
- Fouke is a well served community because the gain area hosts at least five full time FM stations and some full time AM stations.

The Proposed Allotment Is In The Public Interest

5. Acceptance of this proposal and the modification of Construction Permit BPH-970716MD to specify Fouke as its community of license is in the public interest. The reallocation of Channel 282 to Stamps, Arkansas will permit In Phase to increase its proposed areas and population of service for Radio Station KLMZ-FM. Furthermore, this proposal provides first local aural service to the community of Fouke, without depriving Stamps of any local aural service since Radio Station KZHE-FM would continue to operate at Stamps. Therefore, this proposal results in a preferential arrangement of allotments.

6. The Commission should also be apprised of the fact that the Mayor of Fouke, Arkansas is in favor of the instant proposal, as evidenced by the attached letter, dated August 17, 1999, which is attached hereto as Exhibit No. 2.

Statement of Continuing Interest

6. In Phase hereby states that, should the Commission institute the requested Rule Making proceedings and ultimately adopt the amendment to the FM Table of Allotments proposed herein, it would immediately file an application for modification of Construction Permit BPH-970716MD to specify a new

transmitting site while concomitantly specifying Fouke as its community of license.

Conclusion

WHEREFORE, the above premises considered, In Phase respectfully urges the Commission to AMEND §73.202(b) of the Rules, Table of Assignments, as follows:

<u>City / State</u>	<u>Existing</u>	<u>Proposed</u>
Fouke, Arkansas	---	282A
Stamps, Arkansas	263C2, 282A	263C2

Respectfully submitted,

IN PHASE BROADCASTING, INC.

By: 
Cary S. Tepper

Its Attorney

Booth, Freret, Imlay & Tepper, P.C.
5101 Wisconsin Avenue, N.W.
Suite 307
Washington, D.C. 20016-4120

(202) 686-9600

August 19, 1999

Exhibit No. 1

(Technical Statement of Graham Brock, Inc.)

GRAHAM BROCK, INC.

BROADCAST TECHNICAL CONSULTANTS

TECHNICAL COMMENTS
MM DOCKET #99-241
IN PHASE BROADCASTING, INC.
ALLOT CHANNEL 282A
FOUKE, ARKANSAS
August 1999

TECHNICAL EXHIBIT

Copyright 1999

TECHNICAL COMMENTS
MM DOCKET #99-241
IN PHASE BROADCASTING, INC.
ALLOT CHANNEL 282A
FOUKE, ARKANSAS
August 1999

TECHNICAL STATEMENT

This technical statement and attached exhibits were prepared on behalf of In Phase Broadcasting, Inc. ("IPB"), permittee of station KLMZ, Channel 282A, Stamps, Arkansas, and petitioner in MM Docket #99-241. These comments are in response to a Public Notice ("Notice") issued by the Commission regarding the proposed change in community of license of KLMZ from Stamps to Fouke, Arkansas.

The Commission recognizes that KLMZ is an unbuilt FM station at Stamps, Arkansas. It has, however, requested that IPB determine the number of persons who would theoretically receive service from KLMZ, if it were operational in Stamps, and would thus lose the service as a result of the change in community of license to Fouke, Arkansas. The Commission has also requested that IPB determine the number of reception services available in both the loss and theoretical gain area.

As presently authorized, KLMZ would provide 1.0 mV/m service to 27,248 persons. A relocated KLMZ, based on the coordinates proposed in the Notice, would provide 1.0 mV/m service to 63,940 persons. Based on the proposed relocation, 21,689 people would no longer be capable of receiving the service from KLMZ (if it were actually operational) once the change in

community is implemented. By comparison, of the potential 63,940 persons receiving service from a relocated KLMZ, 58,381 persons would receive new service from KLMZ.¹

A study has been conducted to determine the potential number of aural reception services available in both the gain and loss areas, based on the proposed community change. Attached, as Exhibit #1, is a map demonstrating that the entire 1.0 mV/m contour of the authorized KLMZ facility is theoretically served by at least five full-time FM stations. A tabulation of the stations making up the five services is attached at Exhibit #2.² While only FM services were used for this review, there are some full-time AM stations providing service to the loss areas, as well as other full-time FM stations. However, since there were five full-time FM stations serving the loss area (not considering KLMZ), the loss area is deemed to be well-served.

A review of the number of services within the proposed KLMZ gain area, which is detailed on Exhibit #3, shows there are at least five full-time FM services available in the gain area. A tabulation of the stations shown on the gain area service map is attached as Exhibit #4. There are other full-time FM and AM stations providing service to the area. However, since there were five full-time FM services, this theoretical gain area is considered to be well-served.

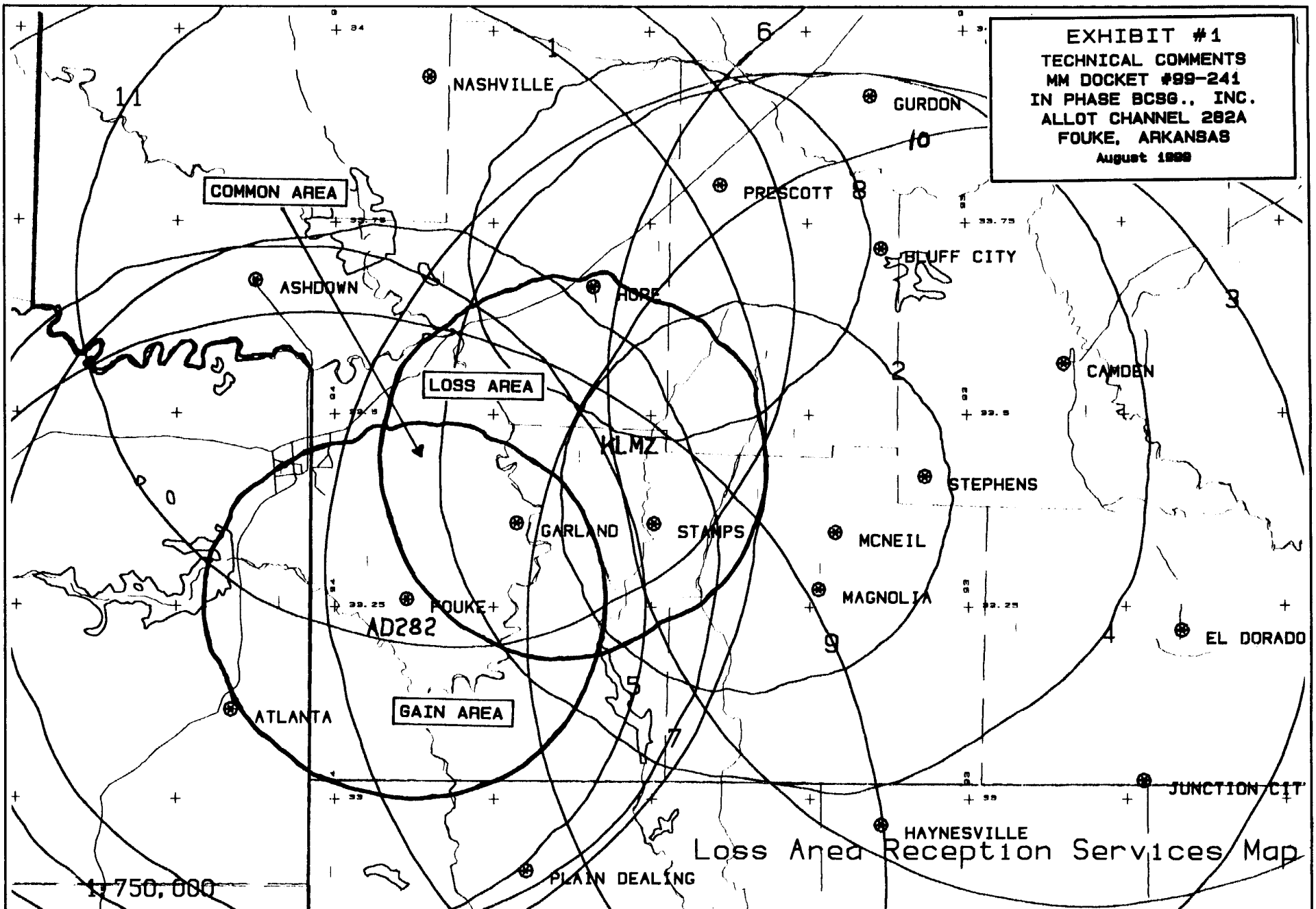
In summary, the area theoretically losing the service of KLMZ (if operational) and the theoretical gain area of a relocated station are both well served by at least five full-time FM

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- 1) The population within the present KLMZ 1.0 mV/m contour was recalculated using 360 radials for a more precise figure. The area which would receive service as presently authorized, as well as following the change in community of license, contains 5,559 persons.
 - 2) The determination of reception services is based on footnote 7 in MM Docket #99-241, DA 99-1291.

services. The re-allotment of Channel 282A from Stamps to Fouke, Arkansas, will not deprive the community of Stamps of its only local service, since FM station KZHE, Channel 263C2, will remain in Stamps. The proposed allotment of Channel 282A will provide the first locally licensed full-time station to Fouke.

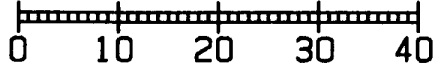
The foregoing technical statement was prepared on behalf of In Phase Broadcasting, Inc., by Graham Brock, Inc., its technical consultants. All data regarding population was extracted from the PL 94-171 computer population database.

EXHIBIT #1
TECHNICAL COMMENTS
MM DOCKET #99-241
IN PHASE BCSG., INC.
ALLOT CHANNEL 282A
FOUKE, ARKANSAS
August 1998



Loss Area Reception Services Map

Scale in km



In Phase Broadcasting, Inc.
 MM Docket #99-241

Graham Brock, Inc.
 Washington, DC

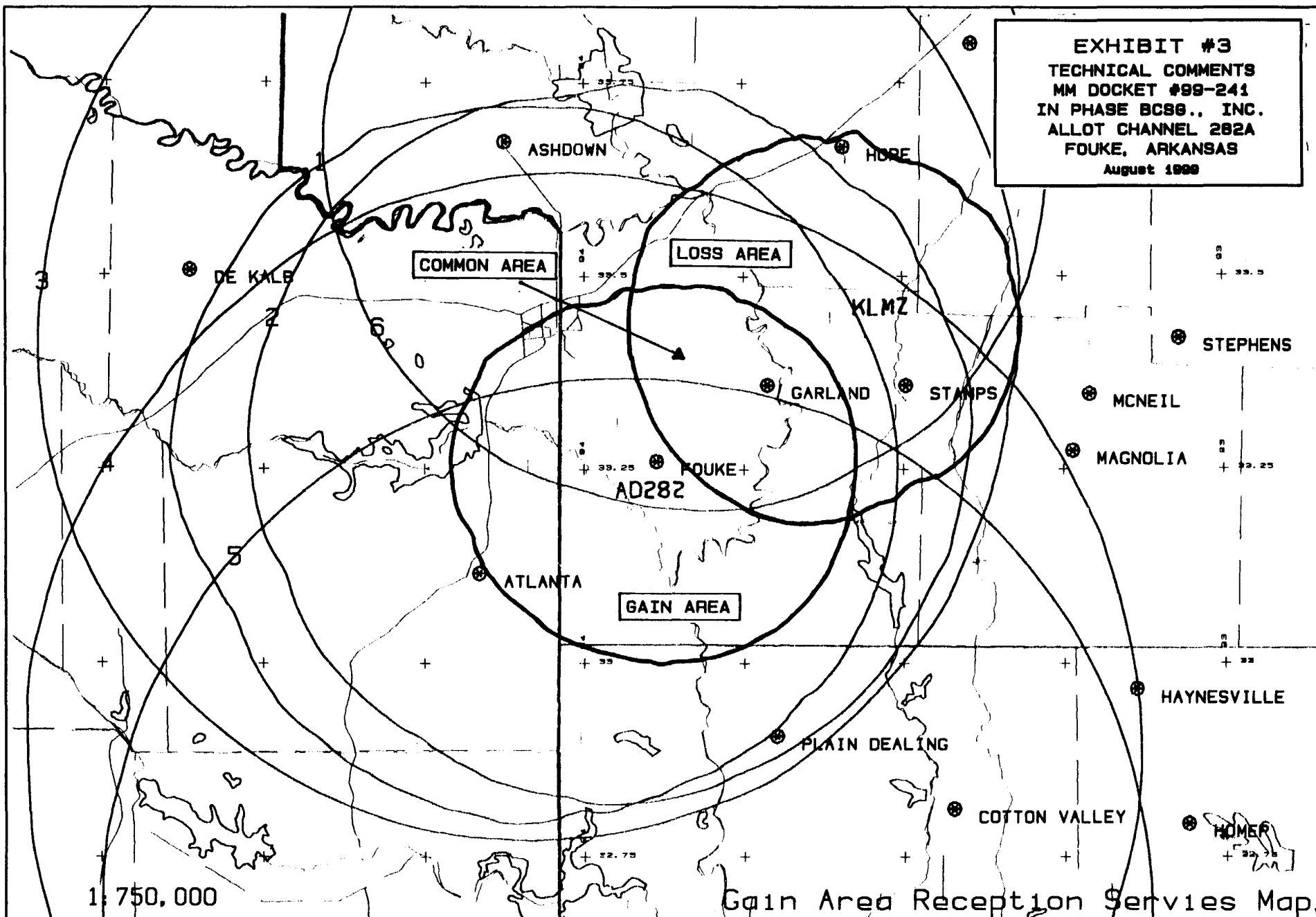
TECHNICAL COMMENTS
MM DOCKET #99-241
IN PHASE BROADCASTING, INC.
ALLOT CHANNEL 282A
FOUKE, ARKANSAS
August 1999

EXHIBIT #2

Stations Providing Service to the KLMZ Loss Area

<u>Map Key #</u>	<u>Call Sign</u>	<u>Channel/Class</u>	<u>City</u>	<u>State</u>	<u>Reception Service</u>
1	KKYR-FM	273C1	Texarkana	TX	1
2	ALOPEN	256A	Waldo	AR	
3	KVMA-FM	300C1	Magnolia	AR	2
4	KZHE	263C2	Stamps	AR	3
5	KPYN	261C2	Atlanta	TX	
6	KCXY	237C1	Camden	AR	4
7	KYGL	292C2	Texarkana	AR	
8	KHPA	285A	Hope	AR	
9	KTAL-FM	251C	Texarkana	TX	5
10	KIXB	277C1	El Dorado	AR	
11	KXAR	269C2	Hope	AR	

EXHIBIT #3
TECHNICAL COMMENTS
MM DOCKET #99-241
IN PHASE BCSB., INC.
ALLOT CHANNEL 282A
FOUKE, ARKANSAS
 August 1999



TECHNICAL COMMENTS
MM DOCKET #99-241
IN PHASE BROADCASTING, INC.
ALLOT CHANNEL 282A
FOUKE, ARKANSAS
August 1999

EXHIBIT #4

Stations Providing Service to the KLMZ Gain Area

<u>Map Key #</u>	<u>Call Sign</u>	<u>Channel/Class</u>	<u>City</u>	<u>State</u>	<u>Reception Service</u>
1	KPYN	261C2	Atlanta	TX	1
2	KYGL	292C2	Texarkana	AR	2
3	KKYR-FM	273C1	Texarkana	TX	3
4	KTAL-FM	251C	Texarkana	TX	4
5	KRMD-FM	266C	Shreveport	LA	5
6	KXAR	269C2	Hope	AR	

AFFIDAVIT AND QUALIFICATIONS OF CONSULTANT

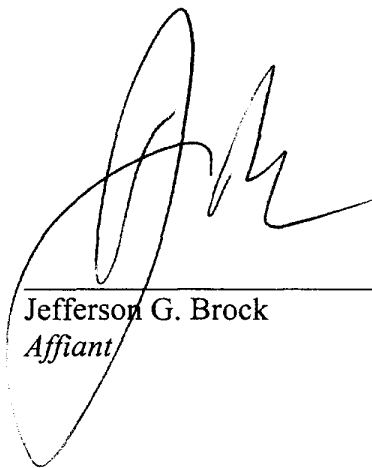
State of Georgia)
St. Simons Island) ss:
County of Glynn)

JEFFERSON G. BROCK, being duly sworn, deposes and says that he is an officer of Graham Brock, Inc. Graham Brock has been engaged by In Phase Broadcasting, Inc., permittee of Radio Station KLMZ, to prepare the attached Technical Exhibit.

His qualifications are a matter of record before the Federal Communications Commission. He has been active in Broadcast Engineering since 1979.

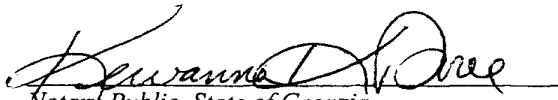
The attached report was either prepared by him or under his direction and all material and exhibits attached hereto are believed to be true and correct.

This the 16th day of August, 1999.



Jefferson G. Brock
Affiant

*Sworn to and subscribed before me
this the 16th day of August, 1999*



Notary Public, State of Georgia
My Commission Expires: April 20, 2002

Exhibit No. 2

(Letter of support from the Mayor of Fouke)

CITY OF FOUKE, ARKANSAS

Cecil E. Smith, Mayor
106 E. Main
Post Office Box 173
Fouke, Arkansas 71837

Telephone: (870) 653-4532
Fax: (870) 653-6022
Aug. 17, 1999

DEAR MR. PETER CEA,

I HAVE SPOKEN WITH MY CITY COUNCIL MEMBERS CONCERNING PHASE BROADCASTING INC.

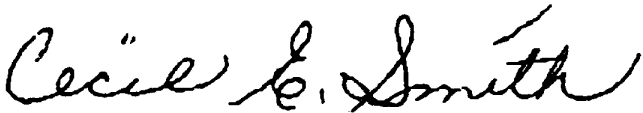
THE COUNCIL AND MYSELF AS MAYOR ARE VERY MUCH FOR THE STATION.

WE FEEL THIS WOULD BE A GREAT ACCESS TO OUR AREA AND WE BELIEVE THAT OUR AREA
WOULD SUPPORT THE RADIO STATION WELL.

WE LOOK FORWARD TO HEARING OUR NAME CALLED ON THE RADIO SOON.

THANK YOU AGAIN FOR YOUR CONCERN.

SINCERELY,

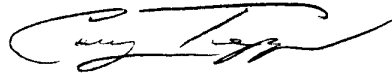


CECIL E. SMITH
"MAYOR"

CERTIFICATE OF SERVICE

I, Cary S. Tepper, Esquire, hereby certify that on this 19th day of August, 1999, I have served a copy of the foregoing "**Comments and Statement of Continuing Interest**" first-class, postage-prepaid, on the following:

*John A. Karousos
Chief, Allocations Branch
Federal Communications Commission
445 12th Street, S.W.; Room 3-A266
Washington, D.C. 20554

A handwritten signature in cursive script, appearing to read "Cary Tepper", written over a horizontal line.

Cary S. Tepper, Esq.

*/ indicates delivery by hand